

STATE OF MICHIGAN
COURT OF APPEALS

UNPUBLISHED

March 15, 2012

In the Matter of TRIMBLE, Minors.

Nos. 305106/305108

Oakland Circuit Court

Family Division

LC No. 2008-745996-NA

Before: O'CONNELL, P.J., and SAWYER and TALBOT, JJ.

PER CURIAM.

In these consolidated appeals, the minor children's mother, Detra Necole Sartin,¹ and father, Adrian Elias Trimble,² appeal as of right the order terminating their parental rights to their six minor children based on the trial court's determinations that the conditions leading to adjudication continued to exist,³ and the failure to provide proper care or custody.⁴ We affirm.

This Court reviews the trial court's findings from an order terminating parental rights under the clearly erroneous standard.⁵ A finding of fact is clearly erroneous if the reviewing court "is left with the definite and firm conviction that a mistake has been made."⁶ "[R]egard shall be given to the special opportunity of the trial court to judge the credibility of the witnesses who appeared before it."⁷ Sartin and Trimble's parental rights were terminated under MCL 712A.19b(3)(c)(i) and (g), which provide:

¹ Sartin appeals in docket number 305106.

² Trimble appeals in docket number 305108.

³ MCL 712A.19b(3)(c)(i).

⁴ MCL 712A.19b(3)(g).

⁵ MCR 3.977(K); *In re Sours*, 459 Mich 624, 633; 593 NW2d 520 (1999).

⁶ *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003).

⁷ MCR 2.613(C); MCR 3.902(A); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989).

(c) The parent was a respondent in a proceeding brought under this chapter, 182 or more days have elapsed since the issuance of an initial dispositional order, and the court, by clear and convincing evidence, finds either of the following:

(i) The conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age.

* * *

(g) The parent, without regard to intent, fails to provide proper care or custody for the child and there is no reasonable expectation that the parent will be able to provide proper care and custody within a reasonable time considering the child's age.

“In order to terminate parental rights, the trial court must find that at least one of the statutory grounds [for termination in MCL 712A.19b(3)] has been met by clear and convincing evidence.”⁸

The trial court did not clearly err in finding the statutory grounds for termination were established with regard to Sartin.⁹ In addition to homelessness, the two most serious issues that existed at the adjudication were Sartin's physical abandonment of the children and her past history of substance abuse. Three years later, at the termination hearing, it was clear that Sartin had again abandoned her children to foster care. Sartin continued to have a substance abuse problem, as evidenced by her positive drug screens for marijuana and cocaine and her refusal to take the ordered drug screens and hair follicle tests. This demonstrated that Sartin had not benefited from the services she completed. Sartin took no responsibility for the situation and blamed and accused the court and the Department of Human Services (DHS) for the removal of her children and her failure to achieve reunification. The record clearly demonstrated that Sartin understood her children would not be returned to her unless she proved to the court that she was drug free and that she understood her children were suffering and languishing in foster care. Sartin, however, put her anger before the needs of her children. The fact that she continued to do so right through the termination hearing demonstrated that the conditions of adjudication continued to exist and would not be rectified within a reasonable time. Sartin's refusal to comply with court orders during the three years the children were in foster care, when her compliance could have accomplished reunification, demonstrated that there was no reasonable expectation that she would be able to provide proper care or custody within a reasonable time, considering the ages and the special needs of her children.

⁸ *In re McIntyre*, 192 Mich App 47, 50; 480 NW2d 293 (1991).

⁹ MCL 712A.19b(3)(c)(i) and (g).

With regard to Trimble, the trial court also did not clearly err in finding the statutory grounds proven by clear and convincing evidence.¹⁰ When this matter was adjudicated, Trimble was incarcerated. He had made no plans and provided no support for his children, leaving that responsibility entirely up to Sartin. When Sartin abandoned the children, Trimble was not able to do anything for his children. More than two years passed after he was released from prison until the termination hearing, but Trimble still did not have adequate housing for his children or permanent employment. Although he may have had good intentions, Trimble again left the responsibility for the children up to their mother. His plan was that they would be returned to Sartin, and he would help out. Trimble attended the required services and visitations and had a good relationship with his children, but he did not have suitable housing or income to provide for them. In fact, he could not provide any of the necessities for himself and was instead supported and housed by his parents and an uncle. Additionally, contrary to Trimble's assertion, the record does not support that DHS failed to present a treatment plan for him and did not make sufficient efforts to help him achieve housing, employment, and other benefits. Thus, given the time that had already passed while the children were in foster care, there was no reasonable expectation that Trimble would be able to remedy the conditions of adjudication or provide proper care and custody for the children within a reasonable time.

The trial court further did not err in holding that termination of Sartin and Trimble's parental rights was in the children's best interests.¹¹ Sartin and Trimble's six children suffered from psychological problems and several had other special needs. The two younger boys became so difficult to handle that even the foster parents, who had been trained to handle special needs children, found themselves unable to continue to care for them. After three years in foster care, the children needed and deserved permanency, which Sartin and Trimble were unable to provide.

Sartin argues for the first time on appeal that evidence of the children's condition when they were removed, their thoughts and feelings about the situation, and the children's progress in their current placements were not relevant and should not have been admitted. The challenged evidence, however, was relevant and probative to determine whether Sartin could provide proper care and custody for the children, how long the trial court should wait for Sartin to remedy the conditions of adjudication and show she could provide proper care and custody, as well as to the

¹⁰ *Id.*

¹¹ MCL 712A.19b(5); *In re Trejo*, 462 Mich 341, 356-357; 612 NW2d 407 (2000).

issue of the children's best interests. Therefore, the evidence was properly admitted and considered by the trial court.¹²

Affirmed.

/s/ Peter D. O'Connell

/s/ David H. Sawyer

/s/ Michael J. Talbot

¹² MCR 3.977(H)(2).